



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	04/07/03	Bill No:	SB 1004
Tax:	Perchlorate Storage Facility Fee	Author:	Soto and Romero
Board Position:		Related Bills:	

BILL SUMMARY

This bill would require every owner of a perchlorate storage facility that stores over 375 pounds of perchlorate in any calendar year to pay a fee of six cents (\$0.06) for each pound of perchlorate stored in the facility. The fee would be paid to the State Board of Equalization (Board) pursuant to the Underground Storage Tank Maintenance Fee Law.

Summary of Amendments

The amendments to this bill require the Board to collect a specified fee that would be imposed upon every owner of a perchlorate storage facility for each pound of perchlorate stored in the facility. The previous version of the bill did not impact the Board.

ANALYSIS

Current Law

Under existing law, there is no state tax or fee imposed upon owners of perchlorate storage facilities for perchlorate stored in the facility.

Proposed Law

This bill would add Chapter 8.5 (commencing with Section 13610) to Division 7 of the Water Code to, among other things, impose upon every owner of a perchlorate storage facility a fee of six cents (\$0.06) for each pound of perchlorate stored in the facility. This bill would define a "perchlorate storage facility" to mean a facility that stores over 375 pounds of perchlorate in any calendar year.

The fee imposed would be paid to the Board pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code, otherwise known as the Underground Storage Tank Maintenance Fee Law. The Board would be authorized to adopt regulations to carry out its administration of the fee, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The Board would collect the fee commencing on April 1, 2004, and deposit all fees collected in the Perchlorate Pollution Prevention Fund, which this bill would create in the State Treasury.

In addition to the perchlorate storage facility fee, the following funds would be deposited into the Perchlorate Pollution Prevention Fund:

- Money appropriated by the Legislature for deposit in the Perchlorate Pollution Prevention Fund.
- Any interest earned upon the money deposited in the Perchlorate Pollution Prevention Fund.
- Revenue generated pursuant to a loan fee charged by a local agency to applicants for a loan that would assist private well owners and public water suppliers to pay for the cost of acquiring water that meets applicable state and federal standards to replace water contaminated by perchlorate.
- Any administrative penalties collected by the State Water Resources Control Board or each California regional water quality control board pursuant to this chapter.

The State Water Resources Control Board would be authorized to expend the money in the Perchlorate Pollution Prevention Fund, upon appropriation by the Legislature, for all of the following purposes:

- To carry out the purposes of, and to pay for the administrative costs of implementing, the provisions of this measure.
- To carry out a loan program that would assist private well owners and public water suppliers to pay for the cost of acquiring water that meets applicable state and federal standards to replace water contaminated by perchlorate.

This bill would become operative January 1, 2004.

Background

According to documents prepared by the U.S. Environmental Protection Agency (EPA), perchlorate is both a naturally occurring and man-made chemical. Most of the perchlorate manufactured in the United States is used as the primary ingredient of solid rocket propellant. Wastes from the manufacture and improper disposal of perchlorate-containing chemicals are increasingly being discovered in soil and water.

Perchlorate interferes with iodine uptake into the thyroid gland. Because iodine is an essential component of thyroid hormones, perchlorate disrupts how the thyroid functions. In adults, the thyroid helps to regulate metabolism. In children, the thyroid plays a major role in proper development in addition to metabolism. Impairment of thyroid function in expectant mothers may impact the fetus and newborn and result in effects including changes in behavior, delayed development and decreased learning capability. Changes in thyroid hormone levels may also result in thyroid gland tumors. EPA's draft analysis of perchlorate toxicity is that perchlorate's disruption of iodine uptake is the key event leading to changes in development of tumor formation.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

There have been confirmed perchlorate releases in at least 20 states throughout the United States. In California, perchlorate contamination has been found in eastern Sacramento County, the San Gabriel Valley, and in Colorado river water supplying Southern California. The full extent of perchlorate contamination is not known at this time.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Environment California and is intended to address the pervasive perchlorate contamination throughout California by creating a comprehensive statewide monitoring system for perchlorate and providing emergency water replacement and fund cleanup of abandoned sites of perchlorate contamination.
2. **Summary of amendments.** The April 7, 2003, amendments require the Board to collect a specified fee that would be imposed upon every owner of a perchlorate storage facility for each pound of perchlorate stored in the facility.
3. **Commencement of the perchlorate storage facility fee.** This bill provides that the Board would be required to collect the proposed fee commencing on April 1, 2004. Although it appears the author intends for that date to be the operative date of imposition of the fee, it should be clarified to avoid confusion. For example, it could be construed that April 1, 2004 is the initial due date of the proposed fee to be paid to the Board. Furthermore, the bill should specify if the fee is an annual fee based on a calendar year or for some other period.
4. **Administration of the fee.** This bill would require the Board to collect the perchlorate storage facility fee pursuant to the Underground Storage Tank Maintenance Fee Law. However, it is suggested that the fee be collected pursuant to the Fee Collection Procedures Law. The Fee Collection Procedures Law contains "generic" administrative provisions for the administration and collection of fee programs to be administered by the Board. The Fee Collection Procedures Law was added to the Revenue and Taxation Code to allow bills establishing a new fee to reference this law, thereby only requiring a minimal number of sections within the bill to provide the necessary administrative provisions. Among other things, the Fee Collection Procedures Law includes collection, reporting, refund and appeals provisions, as well as providing the Board the authority to adopt regulations relating to the administration and enforcement of the Fee Collection Procedures Law.

To provide consistency with other Board-administered fees, it is suggested that proposed Section 13614 be amended to provide the following:

13614. (a) Every owner of a perchlorate storage facility shall pay a fee of six cents (\$0.06) for each pound of perchlorate stored in the perchlorate storage facility during [insert a time period, such as "the prior calendar year"]. ~~The fee imposed pursuant to this section shall be paid to the State Board of Equalization pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.~~

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

~~(b) For purposes of this section, the State Board of Equalization may collect the fees pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). The State Board of Equalization may adopt regulations to carry out this section, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.~~

It is also suggested that the bill be amended to specify a due date for the fee and return, to authorize the payment of refunds on overpayments of the fee and to specifically authorize expenditures from the Perchlorate Pollution Prevention Fund to pay the administrative costs of the Board. Board staff is willing to work with the author's office in drafting appropriate amendments.

8. **Definition of perchlorate.** This bill should include a definition for the term "perchlorate" for purposes of clarification. For example, the bill should clarify whether the term would include products that contain 10 percent sodium or magnesium perchlorate. Board staff is willing to work with the author's office in developing language that reflects the author's intent.
9. **Identification of feepayers.** This bill would require every owner of a perchlorate storage facility, as defined, to pay a fee of six cents (\$0.06) for each pound of perchlorate stored in the facility. To allow for the Board to administer the collection of the proposed fee, it is recommended that the bill be amended to require California State Water Resources Board or other monitoring agency, as appropriate, to provide the Board with a list of perchlorate storage facilities in California. It is also recommended that the bill specify a date by which the monitoring agency is to provide the list to the Board.
10. **This bill should contain a specific appropriation to the Board.** This bill would require the Board to impose a new fee and administer a new program commencing on April 1, 2004, which is in the middle of the state's fiscal year. In order to begin to develop the feepayer base, reporting forms, secure appropriate staff, etc., an adequate appropriation would be required to cover the Board's administrative start-up costs that would not already be identified in the Board's 2003-04 budget.

COST ESTIMATE

The Board would incur non-absorbable costs to adequately develop and administer a new fee program. These costs would include registering fee payers, developing computer programs, mailing and processing returns and payments, conducting audits, developing regulations, training staff, and answering inquiries from the public. A cost estimate of this workload is pending.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

According to the Environmental Working Group (EWG), a not-for-profit environmental research organization, annual perchlorate production reached about 20 million pounds annually in recent years in the United States. The U.S. Environmental Protection Agency indicated that there are at least 266 sites or users of perchlorate in the United States. Of these 266 sites, at least 55 are in California.

Based on the proportion of users in California to the overall users in the U.S., i.e. 21% ($55/266 = 21\%$), it is estimated that 4.2 million pounds would be used by sites in California (21% (20 million pounds) = 4.2 million pounds). This bill initiates a fee of \$0.06 per pound of perchlorate. This equates to an estimated revenue of \$252,000 ($0.06 \text{ (4.2 million pounds)} = \$252,000$).

Revenue Summary

The proposed fee would generate about \$252,000 annually for the Perchlorate Pollution Prevention Fund.

Qualifying Remarks

The Environmental Protection Agency and the California State Water Resources Board did not have any specific data for the amount of perchlorate stored or used in California. Given that about 90% of the perchlorate manufactured each year goes to the Air Force, NASA and defense contractors, a survey of these users could possibly reveal a more accurate assessment of perchlorate stored or used in California.

Analysis prepared by:	Cindy Wilson	916-445-6036	04/25/03
Revenue estimate by:	Ronil Dwarka	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
Is			1004-1cw.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.